

**STATE OF INDIANA – COUNTY OF MADISON
IN THE CIRCUIT COURT**

**Notice of Proposed New Local Rule on Expungements
October 7, 2014**

In accordance with Trial Rule 81 of the Indiana Rules of Court, the Madison Unified Circuit Courts hereby give notice to the bar and the public that the Courts propose to add a new local rule at **LR48-CR00-14.5** concerning **Expungements**. Supreme Court approval is not required for this new local rule.

The time period for the bar and the public to comment will begin on **October 7, 2014**, and will close on **November 6, 2014**.

The **effective date** of the new rule will be November 6, **2014**.

The proposed new local rule is available on the judicial website at:

<http://www.in.gov/judiciary/2923.htm>

Notice has been given to the public on the website of the Madison County Clerk and on the Indiana Judicial Website, and by furnishing a copy to the officers of the Madison County Bar Association. Comments may be made to: Unified Court Administration, 16 E. 9th Street, Suite 417, Anderson, IN 46016 and by email to: jhunter@madisoncounty.in.gov.

Dennis D. Carroll, Judge
Circuit Court – Division 6

G. George Pancol, Judge
Circuit Court – Division 2

Thomas Newman, Jr., Judge
Circuit Court – Division 3

Angela Sims, Judge
Circuit Court – Division 1

David A. Happe, Judge
Circuit Court – Division 4

Thomas Clem, Judge
Circuit Court, Division 5

LR48-CR00-14.5 EXPUNGEMENT OF CONVICTION PROCEDURE

This rule shall apply to all Petitions to Expunge a conviction as set forth in Ind. Code 35-38-9-2 et seq.

All Petitions for Expungement and accompanying orders or exhibits shall be filed on green paper and clearly marked as “Not for Public Access”. Petitions may be filed in any division of the Madison Circuit Court exercising criminal jurisdiction.

Upon filing a Petition to Expunge, the Petitioner shall direct a summons to be served upon the Madison County Prosecuting Attorney with a copy of the petition attached.

Not less than thirty (30) days from the filing of a Petition to Expunge a conviction, the Petitioner, or counsel for the Petitioner shall schedule and conduct an informal pretrial conference with the Deputy Prosecutor assigned to the court in which the petition has been filed.

Immediately following the pretrial conference the parties shall report to the court a “Notice of Pretrial Conference Regarding Petition to Expunge a Conviction” (hereinafter “Notice of Pretrial”) as set forth in Exhibit B of the Madison County Local Rules.

If a Notice of Pretrial Conference is not filed within thirty days (30) of the petition being filed, the court shall enter a docket entry notifying the parties that the cause of action shall be dismissed in ten days (10) without prejudice if a pretrial conference is not conducted.

The State shall make objections as to the form of the petition at the time of the pretrial conference. Objections as to form shall be defined as any statutory defect in the Petitioner’s petition, including failing to allege, or fulfill a statutory requirement, or failure to attach a necessary exhibit.

Upon receipt of the Notice of Pretrial to expunge the court may do the following:

1. Grant any Petition for Expungement in which the State of Indiana indicates it has no objection; or
2. Set the petition for a hearing.

Upon receipt of the Notice of Pretrial the court shall do the following if requested:

1. Grant leave for additional time in which for the State to answer or otherwise file a response to the petition.
2. Grant leave to the Petitioner to amend the petition as to form.
3. Grant leave to the Petitioner to withdraw the Petition for Expungement.

The court shall not grant a Petition to Expunge or set the matter for hearing until a notice of pretrial has been filed.

EXHIBIT B

STATE OF INDIANA)

COUNTY OF MADISON)

SS:

IN THE CIRCUIT COURT OF MADISON COUNTY,

DIVISION _____

TERM, 20_____

BEFORE THE HON JUDGE_____

_____,
Petitioner,

v.

STATE OF INDIANA,
Respondent.

CAUSE NO. 48C0_-_____-MC-_____

NOTICE OF PRETRIAL CONFERENCE
REGARDING PETITION TO EXPUNGE CONVICTION

COMES NOW the Parties, Petitioner _____, proceeding
unrepresented (or) by and through counsel _____, and the State of Indiana,
by and through _____, Deputy Prosecuting Attorney, and reports to the
court that an informal pretrial conference was held between the parties in this cause of action on
____-____-_____. Further the parties report as follows:

Check applicable boxes:

_____ The State of Indiana has no objection to the Petitioner's petition to expunge as to form
or substance.

_____ The State of Indiana has no objection to the form of Petitioner's petition; however,
reserves the right to object to Petitioner's request as to matter of substance and request this
matter be set for hearing.

_____ The State of Indiana objects to the form of Petitioner's petition and has notified the
Petitioner of its particular objection(s).

_____ The State of Indiana requests an additional thirty (30) days in which to file an answer to
the petition for expungement.

_____ The Petitioner requests leave to amend its petition as to form.

_____ The Petitioner requests the court to dismiss this cause of action without prejudice.

Respectfully Submitted,

Petitioner's Counsel or Petitioner

Deputy Prosecuting Attorney

Date

Date